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OFFICE OF PETITIONS

In re Application of :
Dong et al. :
Application No. 09/733,847 : ON PETITION
Filed: 8 December, 2000 :
Atty Docket No. ARC 2644 R1 :

This is a decision on the petition under 37 CFR 1.137(b),¹ filed on 5 January, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 17 June, 2003, for failure to file a proper response to the Notice of Appeal filed on 16 April, 2003, which set a two (2) month shortened period for reply. No extensions of the time in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

On 5 January, 2004, petitioners filed a Request for Continued Examination (RCE) and an information disclosure statement (IDS) as the submission required under 37 CFR 1.114.

The change of correspondence address filed on 5 January, 2004, cannot be accepted because it was not signed by an attorney of record.² There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This application is being forwarded to Technology Center 1600 for processing of the RCE and IDS filed on 5 January, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.



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²See MPEP §§ 601.03 and 405.